

REMARKS

Claims 21, 24, 29, 35, and 41 have been amended to correct minor clerical errors as suggested by the Office Action. No new matter has been added. As described below, this amendment does not raise new substantive issues.

Independent claims 9 and 35 have been amended to recite a “first position” and a “second position” of a pawl, as discussed during a June 16, 2009 telephone interview with Examiner Stigell. During the interview, the Examiner indicated that changing “reset position” to “first position” and further changing “forward position” to “second position” would not raise new substantive issues.

Prompt allowance of all pending claims is respectfully requested.

Office Action was improperly made “final”

The June 15, 2009 Office Action was improperly made final. Because the June 15, 2009 must be treated as a non-final action, Applicant hereby requests that the present amendment be entered as a matter of right.

Applicant contacted the Examiner on June 16, 2009 to discuss the finality of the June 15, 2009 Office Action. Applicant noted that pages 3-4 of the Office Action indicated that the rejection for claims 9-22 and 35-40 was based on a theory of lack of written description support—not lack of enablement as asserted in the earlier Office Action. Thus, the second office action presented a new ground for rejection of claims 9-22 and 35-40 that was not necessitated by an amendment. The MPEP mandates that the second office action must not be made final in these circumstances. *See* MPEP § 706.07(a) (stating that the second action can be final, except where the examiner introduces a new ground of rejection that is not “necessitated by applicant’s amendment of the claims”).

During the June 16, 2009 telephone interview, the Examiner agreed that the present amendments would be entered into the record. Further, even if the Office Action was properly made final, the Examiner indicated that the present amendments to the specification and the claims would not raise new substantive issues. The Applicant respectfully submits that the present amendment places the claims in condition for allowance.

Corrections to Minor Clerical Errors

The Office Action objected to the specification due to minor typographical errors on page 5 of the specification (lines 26 and 32). The identified phrases in the specification have been amended to correct the typographical errors. No new matter has been added, and no new issues have been raised.

The Office Action objected to claim 21 due to minor typographical error. Claim 21 has been amended to correct the typographical error identified by the Office Action. No new matter has been added, and no new issues have been raised.

The Office Action objected to claim 24 due to minor typographical error. Claim 24 has been amended to correct the typographical error identified by the Office Action. No new matter has been added, and no new issues have been raised.

The Office Action objected to claim 29 because there was no antecedent basis for “the driven member.” Claim 29 has been amended to correct the antecedent basis for “driven member.” No new matter has been added, and no new issues have been raised.

The Office Action objected to claim 35 because there was no antecedent basis for “driven member.” Claim 35 has been amended to correctly recite the “ratchet wheel” (which is recited earlier in claim 35) rather than the “driven member.” No new matter has been added, and no new issues have been raised.

The Office Action objected to claim 41 due to minor typographical error. Claim 41 has been amended to correct the typographical error identified by the Office Action. No new matter has been added, and no new issues have been raised.

Claims 9-22

The Office Action rejected claims 9-22 under 35 U.S.C. § 112, ¶1 for lack of written description support. In particular, the Office Action contented that there is no disclosure of a “reset position” and a “forward position” of a pawl because the specification describes a “retracted position” and an “engaged position.” (See Office Action at pp. 3-4.) Applicant respectfully disagrees with this contention, as it appears to contradict the standards set forth in the MPEP: “The subject matter of the claim need not be described literally (i.e., using the same

terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.” MPEP § 2163.02.

Nevertheless, Applicant has amended independent claim 9 (and corresponding claims 14, 15, and 20) so as to change “reset position” to “first position” and to further change “forward position” to “second position.” Clearly, the original specification shows that the inventor was in possession of embodiments in which a pawl is adjusted between a first position and a second position. (*See Specification at page 5, lines 10-32 and page 6, lines 18-34.*) This change to claim 9 was discussed during the June 16, 2009 telephone interview with Examiner Stigell. The Examiner indicated that changing “reset position” to “first position” and further changing “forward position” to “second position” would not raise new substantive issues.

Claims 23-34

The Office Action indicated that claims 23-34 were allowed. These claims remain in their allowed form. As previously described, the objections to dependent claims 24 and 29 have been resolved.

Claims 35-40

The Office Action rejected claims 35-40 under 35 U.S.C. § 112, ¶1 for lack of written description support. Here again, the Office Action contented that there is no disclosure of a “reset position” and a “forward position” of a pawl because the specification describes a “retracted position” and an “engaged position.” (*See Office Action at pp. 3-4.*) As previously described, this contention contradicts the standards set forth in the MPEP: “The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.” MPEP § 2163.02.

Nevertheless, Applicant has amended independent claim 35 so as to change “reset position” to “first position” and to further change “forward position” to “second position.” The original specification shows that the inventor was in possession of embodiments in which a pawl is adjusted between a first position and a second position. (*See Specification at page 5, lines 10-32 and page 6, lines 18-34.*) As previously described, this change to claim 35 was discussed during the June 16, 2009 telephone interview with Examiner Stigell. The Examiner indicated

that changing “reset position” to “first position” and further changing “forward position” to “second position” would not raise new substantive issues.

Claims 41-44

The Office Action indicated that claims 41-43 were allowed. These claims remain in their allowed form. As previously described, the objection to claim 41 have been resolved.

Applicant notes that since the August 31, 2006 Preliminary Amendment, two dependent claims were unintentionally numbered as claim 43. The present amendment corrects the claim numbering to reflect that the last claim is properly numbered as claim 44. No new matter has been added, as the subject matter in claims 43 and 44 was previously examined and allowed. Only the claim number was changed.

Request for Allowance of Claims

Applicant submits that claims 9-43 are in condition for allowance because all claim rejections have been resolved. Prompt allowance is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper. The Patent Office should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant’s position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Office Action, based on the amendments made herein.

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Please charge \$26 to deposit account 06-1050 for an excess claims fee because the present amendment corrects the claim numbering to reflect that the last claim is properly numbered as claim 44. No new matter has been added, as the subject matter in claims 43 and 44 was previously examined and allowed.

Respectfully submitted,

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